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HOUSE BILL 506

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO WORKERS' COMPENSATION; AMENDING THE RESIDUAL
PHYSICAL CAPACITY TABLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-26.4 NMSA 1978 (being Laws 1990
(2nd S.S.), Chapter 2, Section 15) is amended to read:

"52-1-26.4. PARTIAL DISABILITY DETERMINATION

~~[CALCULATION]~~ -- PHYSICAL CAPACITY MODIFICATION. --

A. The range of the physical capacity modification
is one to eight.

B. The award of points to a worker shall be based
upon the difference between the physical capacity necessary to
perform the worker's usual and customary work and the worker's
residual physical capacity. The award of points shall be based
upon the following table:

underscored material = new
[bracketed material] = del ete

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RESIDUAL PHYSICAL CAPACITY

		S	L	M	H
PRE- INJURY	S	1	1	1	1
PHYSICAL CAPACITY (USUAL AND CUSTOMARY WORK)	L	2 4	1	1	1
	M	4 6	2 4	1	1
	H	8	4 6	2 4	1.

C. For the purposes of this section:

(1) "H" or "heavy" means the ability to lift over fifty pounds occasionally or up to fifty pounds frequently;

(2) "M" or "medium" means the ability to lift up to fifty pounds occasionally or up to twenty-five pounds frequently;

(3) "L" or "light" means the ability to lift up to twenty pounds occasionally or up to ten pounds frequently. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree or when it involves sitting most of the time with a degree of pushing and pulling of arm or leg controls or both; and

(4) "S" or "sedentary" means the ability to lift up to ten pounds occasionally or up to five pounds frequently. Although a sedentary job is defined as one that involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary

1 if walking and standing are required only occasionally and
2 other sedentary criteria are met.

3 D. The determination of a worker's residual
4 physical capacity shall be made by a health care provider
5 defined in Subsection C, E or G of Section 52-4-1 NMSA 1978.
6 If the worker or employer disagrees on who shall make this
7 determination, the dispute shall be resolved in accordance with
8 the provisions set forth in Section 52-1-51 NMSA 1978. "

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